

**Conference Committee Report on
Senate Bill No. 1738 / House Bill No. 1054**

The Senate and House Conference Committee appointed pursuant to motions to resolve the differences between the two houses on Senate Bill No. 1738 (House Bill No. 1054) has met and recommends that all Senate and House amendments be deleted.

The Committee further recommends that the following amendment be adopted:

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-1001(2), is amended by adding the following language at the end of the subdivision:

. "Cigarette" includes any cigarette produced by a cigarette rolling machine at a retail establishment;

SECTION 2. Tennessee Code Annotated, Section 67-4-1001, is amended by adding the following language as new, appropriately designated subdivisions:

() "Cigarette rolling machine" means a machine at a retail establishment that enables any person to process at that establishment tobacco or any product that is made or derived from tobacco into a roll or tube. "Cigarette rolling machine" does not mean any hand-held, manually operated cigarette rolling machine, equipment, or device, if such machine, equipment, or device is held by the retail establishment solely for the sale to consumers for off-premises use in making cigarettes for personal consumption;

() "Cigarette rolling machine operator" means a person that purchases or leases for use, or controls, possesses or maintains, a cigarette rolling machine at a retail establishment that enables any person to process at that establishment tobacco or any product that is made or derived from tobacco into a roll or tube. A cigarette rolling machine operator is deemed to be a tobacco distributor for purposes of this part;

() "Loose tobacco" means tobacco that is not contained in rolls or tubes and that has been removed from its original packaging;

SECTION 3. Tennessee Code Annotated, Section 67-4-1006(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) The tax imposed by this part shall be paid by the purchase of stamps from the commissioner of such design or denomination as may be prescribed by the commissioner, except that reconciliation payments of taxes on cigarettes made by cigarette rolling machine operators shall be paid in the time and manner prescribed by § 67-4-1031.

SECTION 4. Tennessee Code Annotated, Section 67-4-1011, is amended by adding the following language as a new, appropriately designated subsection:

() A cigarette rolling machine operator must keep records both of tobacco sold for use in the operator's cigarette rolling machine and of any cigarettes made from such tobacco through use of the cigarette rolling machine.

SECTION 5. Tennessee Code Annotated, Section 67-4-1012(a), is amended by adding the following language at the end of the subsection:

Every cigarette rolling machine operator shall permit the commissioner or the commissioner's authorized agent to inspect the operator's cigarette rolling machine at any time.

SECTION 6. Tennessee Code Annotated, Section 67-4-1015(c)(1), is amended by adding the following language as new, appropriately designated subdivision:

() Cigarette rolling machine operator — Five hundred dollars (\$500) for each cigarette rolling machine purchased or leased for use, or controlled, possessed or maintained by the cigarette machine operator;

SECTION 7. Tennessee Code Annotated, Title 67, Chapter 4, Part 10, is amended by adding the following language as a new section:

67-4-1031. Reconciliation of tax on cigarettes produced by cigarette rolling machines.

A tax shall be levied on the consumer of cigarettes produced through the use of a cigarette rolling machine at the rate imposed by § 67-4-1004, except that § 67-4-1004(b) shall not apply to such cigarettes. Such tax shall be reduced by the amount of state excise tax paid by the cigarette rolling machine operator pursuant to § 67-4-1005 for the purchase of tobacco products used to produce such cigarettes. A cigarette rolling machine operator shall calculate the amount of tax applicable to the cigarettes produced through the use of a cigarette rolling machine and shall remit such amount to the department with the requisite tax forms.

SECTION 8. Tennessee Code Annotated, Title 67, Chapter 4, Part 10, is amended by inserting the following language as new sections:

67-4-1032. Cigarette rolling machine operators.

(a) On and after October 1, 2013, no cigarette rolling machine operator shall:

(1) Use, offer for use, or allow to be used in its cigarette rolling machines any tobacco other than roll-your-own tobacco that is currently listed on the directory maintained by the commissioner pursuant to § 67-4-2602;

(2) Possess any loose tobacco other than roll-your-own tobacco that is currently listed on the directory maintained by the commissioner pursuant to § 67-4-2602;

(3) Possess more than sixteen (16) ounces per cigarette rolling machine of loose tobacco of any brand within a directory-approved roll-your-own brand family at any given time; or

(4) Accept or allow the operator's cigarette rolling machine to be used to process cigarettes with tobacco that was not first purchased or obtained from the cigarette rolling machine operator.

(b)

(1) Any cigarette rolling machine purchased or leased for use, or controlled, possessed or maintained by a cigarette rolling machine operator must contain a secure meter that:

(A) Counts the number of cigarettes made, manufactured, or fabricated by the machine; and

(B) Cannot be altered by the cigarette rolling machine operator.

(2) Upon request by the commissioner, a cigarette rolling machine operator shall provide the information contained on the secure meter. The cigarette rolling machine operator shall maintain the information contained on the secure meter for a period of seven (7) years from the date of each transaction.

(c) In addition to or in lieu of any other civil or criminal remedy provided by law:

(1) The commissioner may revoke or suspend a license issued to a cigarette rolling machine operator under this part if the cigarette rolling machine operator has violated this section, or any rule adopted pursuant to this section, as provided by § 67-4-1016 and in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(2) For each violation of this section, or any rule adopted pursuant to this section, the commissioner may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the tobacco that is sold, offered for sale, or possessed for sale in violation of this section or five thousand dollars (\$5,000). Such penalty shall be imposed in the manner

provided by § 67-4-1015 and in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) Any tobacco that has been sold, offered for sale, or possessed for sale by the cigarette rolling machine operator in violation of this section shall be deemed contraband and is subject to seizure and forfeiture by the commissioner as provided in § 67-4-1020 and § 67-4-1021.

(e) In lieu of the reporting requirements contained in § 67-4-2604(a), the commissioner may require, upon request, a cigarette rolling machine operator to submit any additional information as is necessary to enable the commissioner to determine whether a cigarette rolling machine operator is in compliance with this part.

67-4-1033.

(a) Prior to October 1, 2013, it is an offense for any person selling, leasing, or otherwise providing for use a cigarette rolling machine to fail to provide notice prior to the sale of the machine to the prospective purchaser, lessor, or user of such machine on a separate, written disclosure form the current status of the federal excise tax rate on tobacco products, including but not limited to pipe tobacco, and that, on and after October 1, 2013, pursuant to the provisions of this act:

(1) The products produced by the machine:

(A) Will be cigarettes for the purposes of title 67, chapter 4, part 10; and

(B) Will be taxed as provided in this act; and

(2) Only tobacco included on the directory established pursuant to § 67-4-2602 will be permitted to be used in such machine.

(b) The department shall require an applicant for a cigarette rolling machine operator license under 67-4-1015(c)(1) to disclose whether the applicant received the notice required by subsection (a).

(c) A violation of subsection (a) is a Class A misdemeanor punishable by a fine only. Each failure to provide notice shall constitute a separate violation.

SECTION 9. On or before February 1, 2013, the commissioner of revenue shall report to the finance, ways and means committees of the senate and the house of representatives concerning cigarette rolling machine operators in this state. The report shall identify as of August 1, 2012, and January 15, 2013, the number of licensed cigarette rolling machine operators and the number of cigarette rolling machines in this state.

SECTION 10. This act shall take effect July 1, 2012, the public welfare requiring it, provided, however, that Section 3 and Section 7 shall take effect October 1, 2013, the public welfare requiring it.

Senator Jack Johnson

Representative Steve McDaniel

Senator Bill Ketron

Representative Gary Odom

Senator Reginald Tate

Representative Charles Sargent